

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK  
THE UNITED STATES OF AMERICA,

Plaintiffs,

v.

STATE OF NEW YORK; KATHLEEN HOCHUL,  
Governor of New York, in her Official Capacity;  
LETITIA A. JAMES, Attorney General of New  
York, in her Official Capacity,

Defendants.

Case No.  
25-cv-00744-MAD-PJE

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR LEAVE TO FILE AN  
AMICUS BRIEF IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS**

Date: August 11, 2025

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## I. Introduction

Proposed *amici curiae* (“*amici*”) respectfully request permission to file the amicus brief attached as Exhibit A in support of Defendants’ motion to dismiss. *Amici* are legal services and community-based organizations whose clients and members benefit from the Protect Our Courts Act (“POCA”) and Executive Orders, which the United States challenges in this litigation. *Amici* represent their clients and members in courthouses throughout New York, and their clients and members rely on state services that the Executive Orders help make accessible. The Court should grant *amici*’s motion because they have specialized knowledge regarding the subject matter of this litigation and a perspective that can benefit the Court. *See, e.g., Onondaga Indian Nation v. New York*, 97-CV-445, 1997 U.S. Dist. LEXIS 9168, at \*6-8 (W.D.N.Y. June 24, 1997).

In this memorandum, pursuant to Local Rule 7.2(b), *amici* succinctly set forth the nature of their interests, why an amicus brief would be helpful to the Court, and why the matters asserted are relevant to the disposition of the case.

Counsel for Plaintiff and Defendants have consented to the relief sought by this motion.

## II. Statements of Interest

A. **The Legal Aid Society (“Legal Aid”)** has provided free legal services to low-income people in New York City since 1876. As the primary provider of indigent criminal defense services in New York City, Legal Aid’s Criminal Defense Practice defends the rights of thousands of New Yorkers accused of crimes. Legal Aid’s Immigration Law Unit is a leader in the provision of legal services in immigration matters. Legal Aid’s Civil Practice represents tenants, survivors of domestic violence, public benefits applicants and recipients, and workers, among others, in a wide variety of cases. Legal Aid’s Law Reform Units engage in policy advocacy and affirmative litigation to respond to emergent issues and protect and expand the rights of our clients. Legal Aid was plaintiffs’ counsel in *Doe v. U.S. Immigration & Customs Enforcement*, 19-cv-8892

(S.D.N.Y.), a case about ICE’s courthouse arrests policy, and was part of the coalition advocating for the enactment of the Protect Our Courts Act (“POCA”). Legal Aid’s staff has deep interdisciplinary expertise on laws protecting the rights of New Yorkers, including immigrants, and on ICE’s operations., including immigrants, and on ICE’s operations.

B. **The Immigrant Defense Project (“IDP”)** is a New York-based nonprofit legal resource, training and advocacy organization dedicated to promoting fundamental fairness for immigrants accused or convicted of crimes. IDP is a New York State Office of Indigent Legal Services Regional Immigration Assistance Center (“ILS-RIAC”) and provides training, technical assistance, and resources to the five ILS-RIAC offices. Since 1997, IDP has published the premier legal resource and treatise on criminal-immigration law for defense counsel in New York State, which is updated annually. As an organization devoted to fair treatment for immigrants involved in the criminal legal system, IDP played a central role in advocating for the protections of the Protect Our Courts Act and is deeply committed to defending the historic law, which safeguards the functioning of our courts and helps ensure that our state resources allow all New Yorkers to thrive.

C. **Sanctuary for Families (“Sanctuary”)** is New York State’s largest dedicated service provider and advocate for survivors of domestic violence, human trafficking, and related forms of gender violence. Each year, Sanctuary provides legal, clinical, shelter, and economic empowerment services to approximately 15,000 survivors. Sanctuary’s Immigration Intervention Project provides free legal assistance and direct representation to thousands of immigrant survivors every year in a broad range of humanitarian immigration matters, including asylum, special rule cancellation of removal, SIJS, Violence Against Women Act self-petitions, and petitions for U and T nonimmigrant status. In addition, Sanctuary provides training on domestic violence and

trafficking to community advocates, pro bono attorneys, law students, service providers, and the judiciary, and plays a leading role in advocating for legislative and public policy changes that further the rights and protections afforded to survivors and their children.

D. **New York County Defender Services (“NYCDS”)** is a public defender office serving indigent clients in the borough of Manhattan since 1997. Like other *amici*, NYCDS provides comprehensive legal advocacy for its clients facing all manner of criminal charges and the related collateral impacts of criminal prosecution. NYCDS’s Immigration Unit is specifically tasked with aiding and advising each and every NYCDS client with immigration concerns or otherwise facing immigration consequences as a result of their criminal case. In collaboration with Immigration and other units, NYCDS’s Policy Team engages in advocacy and affirmative litigation to respond to emergent issues and advocate for systemic reforms that impact all clients, regardless of citizenship. NYCDS bears witness every day to the disproportionate impacts of the justice system borne by our non-citizen clients, in and out of the courtroom. NYCDS was also part of the original coalition advocating for the enactment of POCA.

E. **LatinoJustice PRLDEF (“LatinoJustice”)**. Founded in 1972, LatinoJustice PRLDEF’s mission is to use and challenge laws to create a more just and equitable society, transform harmful systems, empower Latino communities, fight for racial justice, and grow the next generation of leaders. For over fifty years, LatinoJustice has litigated landmark civil rights cases and advanced policy reforms in our primary pillars of practice including immigrants’ rights. LatinoJustice has filed, joined and supported numerous amicus briefs supporting and defending immigrants’ rights, including IDP’s 2019 amicus brief supporting the plaintiff in *State of New York v. U.S. ICE*, 2019-cv-8876 (JSR) (S.D.N.Y.) (challenging the ICE policy change on courthouse

arrests); and was an active member of the IDP-led ICE Out of Courts NYS campaign in 2018-20, leading to the enactment of POCA.

F. **Neighborhood Defender Service of Harlem (“NDS”)** is a community-based public defense office serving the residents of Northern Manhattan. NDS’s unique holistic defense model provides clients with zealous, client-centered advocacy in addressing a wide array of legal issues. NDS advocates for clients in courthouses across New York City including criminal court, family court, housing court, and civil court, as well as in immigration and custody proceedings. NDS's Immigration Defense Team advises every noncitizen client that the organization represents in criminal proceedings and has an interest in ensuring that immigrant defendants' rights are protected.

G. **Make the Road New York (“MRNY”)** is a nonprofit, membership-based community organization that integrates community organizing, adult and youth education, legal and survival services, and policy advocacy, in a holistic approach to help low-income New Yorkers improve their lives and neighborhoods. MRNY has over 180 staff, over 28,000 members, and five offices spread throughout New York City, Long Island, and Westchester. MRNY is at the forefront of numerous initiatives to analyze, develop, and improve civil and human rights for immigrant communities, including issues related to detention and deportation of immigrant community members. MRNY was deeply involved in the efforts to pass the Protect Our Courts Act in New York. Its attorneys and accredited representatives regularly represent both detained and nondetained clients in the greater New York City area in immigration matters, as well as represent clients in their legal matters in various state courts, including housing and family courts.

H. **Brooklyn Defender Services (“BDS”)** is one of the largest public defense offices in New York State, representing low-income people in criminal, family, civil, and immigration

proceedings each year. Our criminal defense practice represents people charged with crimes in Brooklyn and Queens. Since 2009, BDS has counseled thousands of clients in immigration matters, including deportation defense, affirmative applications, advisals, and immigration consequence consultations in the criminal court system. For over twenty-five years, BDS has worked, in and out of court, to protect and uphold civil rights and change laws and systems that perpetuate injustice and inequality.

### III. **Why an Amicus Brief Would be Helpful to the Court**

*Amici's* clients and members are the direct beneficiaries of POCA and the Executive Orders. POCA and the Executive Orders help protect them from a pronounced chilling effect that would otherwise impair their ability to access the court system, obtain needed public benefits, and otherwise exercise rights guaranteed by the United States and New York Constitutions. Drawing on *amici's* clients and members' experiences, the amicus brief explains how POCA and the Executive Orders advance important state public health and safety priorities and help ensure that New York complies with its constitutional obligations.

### IV. **Why the Matters Asserted Are Relevant to the Disposition of the Case**

As set forth above, the amicus brief illustrates how POCA and the Executive Orders serve core state health and safety interests unrelated to immigration and respect New York's constitutional and statutory obligations. The Tenth Amendment protects New York's exercise of its police powers to advance these interests. *See California v. United States*, 921 F.3d 865, 889-891 (9th Cir. 2019). Because the Constitution safeguards New York's police powers to protect health and safety, the United States cannot prevail on its claims that federal law preempts New York's exercise of them, *see, e.g., United States v. California*, 314 F. Supp. 3d 1077, 1105 (E.D. Cal. 2018), and the Court should grant Defendants' motion to dismiss.

V. **Conclusion**

For the foregoing reasons, the Court should grant *amici* leave to file the attached amicus brief.

Respectfully submitted,

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